

**I. Rejection Under 35 U.S.C. § 103 Over Klaus et al. in View
Of mark et al.**

Claims 1-7 and 9-10 were rejected as being unpatentable over Klaus et al., (US Patent No. 5,958, 956) in view of Mark et al. See Pages 2-3 of the Office Action. Applicants respectfully traverse the rejection.

The Office Action on Page 2 states that "Klaus et al. . . . teaches a method of administering a composition comprising the step of preparing a topical solution freshly each week and administered topically to the effective area. . . . Applicant's claims differ because they require the refrigeration after admixing. However, it would have been obvious to one of ordinary skill in the art to modify the teaching of [Klaus et al.] to include refrigeration at the time of the invention was made when [Klaus et al.] is taken in view of Marks . . . because [Klaus et al.] teaches the use of refrigeration of retinoic acids to increase stability"

As previously stated, while Klaus et al. does disclose compounds of formula I and the topical use of such compounds "in the form of ointments, tinctures, creams, solutions, lotions, sprays, suspensions, and the like (See col. 4, lines 8-15 of Klaus, et al.)," it does not disclose the instability of such compounds in topical formulations, as discovered by the Applicants. As discussed in the background of the invention of the present application, the instability of these compounds inhibits the ability to market such compounds in a shelf-stable, topical formulation. As many retinoids, such as tretinoin and retinol, are sold in shelf-stable, topical formulations (see Retin-A® Cream, containing retinoic acid, attached hereto as Exhibit A and Neutrogena Healthy Skin® Anti-Wrinkle Cream, containing retinol, attached hereto as Exhibit B), one of ordinary skill in the art would not be led to administer the retinoids of formula I using the currently claimed method as such formulation difficulties are not disclosed, nor suggested, by Klaus, et al.


Assuming arguendo that one would look to alternative methods of topically administering the compounds of Klaus, et al., one of ordinary skill in the art would not look to Marks. Marks discloses an instability of certain "cream formulations of tretinoin," but not of the compound

tretinoin itself, which as discussed above is sold in a shelf-stable topical formulation (i.e., Retin-A® Cream). Also, tretinoin is not a compound claimed in formula I of the claimed invention. Thus, one of ordinary skill in the art would not be motivated to combine the teachings of Klaus et al. and Marks.

Accordingly, Applicants respectfully request that this rejection under 35 USC 103 be withdrawn.

In view of the foregoing amendments and remarks, Applicants submit that the application is in condition for allowance. Accordingly, Applicants respectfully request allowance of the pending claims.

Respectfully submitted,



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